



OPEN DIALOG FOUNDATION

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REPORT:

Illegal extradition and kidnapping of citizens of Central Asian countries in the Russian Federation

According to the information provided by the General Prosecutor's Office of the Russian Federation, in 2012, rulings were issued to render 1124 persons to other States; at the same time, foreign states granted 229 of 439 Russian extradition requests.¹ In many cases, the renderings concerned people who had committed crimes, and whose guilt had been proven. However, there are also incidents of illegal extradition, undertaken in violation of international agreements and contrary to the decisions of the European Court of Human Rights. In most cases, it is extradition to the Central Asian countries, where prisoners are subjected to torture and ill-treatment. Thus, according to the information provided by the international human rights organisation Amnesty International, from August 2011 to June 2013, 9 people were illegally deported from Russia to the countries of Central Asia.²

1. CASES OF UNLAWFUL EXTRADITION AND KIDNAPPING

The European Convention on Extradition, ratified by the Russian Federation, stipulates a ban on extradition of criminals convicted for political reasons, or due to race, religion, nationality or political opinion. The UN Model Treaty on Extradition, which lists grounds for obligatory refusal to carry out extradition, mentions the inadmissibility of extradition in the face of the threat of being subjected to torture and ill-treatment in the requesting country. However, these points of the Convention are often violated, particularly in cases of extradition between CIS countries.

From 2007 to 2012, the European Court of Human Rights (ECHR) examined 34 cases, collectively known as 'the Garabayev group'. The applicants appealed to the ECHR following the issuance of the decision on their extradition from the Russian Federation, as they feared being subjected to torture and ill-treatment in the countries which had demanded their extradition. Nevertheless, despite the decision handed down by the ECHR to suspend the rendering or deeming the rendering carried out illegal, the only applicant who managed to return to Russia, was Murad Garabayev.³ In some cases, the applicants were released, but they immediately disappeared, and after some time, they were found to be held by investigative bodies of the countries which had demanded their extradition.⁴

1.1. Azamatzhon Ermakov's case.

On 2 November, 2012, Uzbek citizen, Azamatzhon Ermakov, accused in his homeland of religious extremism, was released from the detention centre in Nizhny Novgorod in connection with the ECHR's decision to ban his extradition to Uzbekistan. On the same day, Ermakov disappeared.

¹ <http://www.genproc.gov.ru/ms/>

² <http://www.amnesty.org/en/library/asset/EUR04/001/2013/ru/73d049e8-154b-42b3-aa63-6ab4ce226469/eur040012013ru.pdf>

³ <http://www.hro.org/node/17567>

⁴ <http://dw.de/p/1918r>

According to the investigative department of Nizhny Novgorod, the Uzbek refugee voluntarily left Russia and arrived in Uzbekistan by plane. However, according to Amnesty International, Ermakov could not return home voluntarily, because he not only knew about the impending danger in the event of his return, but did not have the money to buy a plane ticket.⁵

The 40-year-old, Azmatzhon Ermakov was detained on 1 July, 2011, at the request of Uzbekistan and was remanded in custody for 18 months. He is one of dozens of Uzbek citizens, detained abroad on charges of religious extremism and terrorism, who have been forcibly transferred back to Uzbekistan. According to human rights activists, the Uzbek authorities deliberately exaggerate the threat of terrorism in order to gain the support of the international community. In fact, under the pretext of the fight against religious extremism and terrorism, opponents of the regime are eliminated.⁶

1.2. Abdulaziz Boymatov's case.

In 1997, a citizen of Uzbekistan, Abdulaziz Boymatov left for Russia, as he feared persecution due to his Muslim faith. In 1998, he was put on the wanted list in his homeland on charges of attempting to overthrow the constitutional order of the Republic of Uzbekistan; due to this fact, he carried a false passport on him. In spring 2006, the fugitive was arrested, but was subsequently released due to the refusal of the General Prosecutor's Office to extradite him to Uzbekistan; the request for his extradition was submitted on 29 April, 2006. In 2007, Boymatov was sentenced to hard labour for using false documents; he served his sentence in the proximity of his place of residence, in the village of Ufa-Shigiri (Sverdlovsk Province).⁷

On 25 April, 2007, Boymatov was instructed to report to the chief of the criminal police of the Nizhneserginskiy District Department of Internal Affairs, V.G. Chempalov. The detainee was taken to the Federal Migration Service (FMS) of Russia in Sverdlovsk Province, ostensibly to complete paperwork to permit his residence in the Russian Federation. However, as it transpired the following day, Boymatov did not reach the FMS, but was sent by plane to Tashkent, and then disappeared. In July 2007, the 'Civic Assistance' Committee sent an inquiry regarding the fate of Boymatov to the Sverdlovsk Province Prosecutor's Office; a response was received stating that the investigation had not revealed any involvement of employees of law enforcement bodies from the Sverdlovsk Province in Boymatov's disappearance. A criminal case was instituted in connection with the man's disappearance.⁸

1.3. Makhmadruzi Iskandarov's case.

On 9 December, 2004, Makhmadruzi Iskandarov, the leader of the opposition 'Democratic Party of Tajikistan', was arrested in Moscow at the request of the Tajik authorities. On 4 April, 2005, the Moscow Prosecutor's Office released him due to lack of sufficient grounds for his further incarceration. At the same time, Iskandarov did not receive his passport back which had been previously been confiscated. On 15 April, 2005, Iskandarov was detained again by Russian Special Forces and transferred to Tajikistan on a special flight. Ten days later, it was revealed that he was being remanded in the detention facility of the Ministry of Security of Tajikistan. On 5 October, 2005, Iskandarov was sentenced by the Supreme Court of Tajikistan to 23 years' imprisonment. During the hearing of his case in court, he reported the violations, committed against him during his detention

⁵ <http://jarayon.com/ru/index.php/2012-04-04-14-31-53/item/292-ai-vyrazil-a-obespokoennost-sudboj-bez-vesti-propavshego-v-rossii-uzbekistantsa-azamatzhona-ermakova>

⁶ <http://russian.eurasianet.org/node/60040>

⁷ <http://www.memo.ru/d/907.html>

⁸ <http://www.memo.ru/2007/07/12/1207071.html>

and investigation process. On 30 March, 2011, the Office of the United Nations High Commissioner for Human Rights demanded that Iskandarov be released or his case be reconsidered together with the Office of the High Commissioner for Human Rights, and that he should additionally be paid compensation for moral and material damage. Still, this ruling has not been executed.⁹

1.4. Cases of members of the organisation ‘Hizb ut-Tahrir’ and other religious groups.

On 10 December, 2012, an Uzbek citizen, Yusup Kasymakhunov was released from Murmansk penal colony in connection with the expiration of his sentence. A few days later, after Kasymakhunov’s move to a rented apartment in Moscow Province, he disappeared. His neighbours, as well as a group of human rights activists, with whom Kasymakhunov had come into contact, claim that the victim had repeatedly complained that he was being followed by unknown persons in vehicles. The time when he stopped responding to calls, approximately corresponds to the time when the above mentioned vehicles disappeared, and they have not been seen since in the village, where Kasymakhunov lived.¹⁰

The sentence of imprisonment was handed down by the Supreme Court of the Russian Federation on the grounds that Kasymakhunov belonged to the international Islamic political organisation ‘Hizb ut-Tahrir’, recognised as terrorist, pursuant to the legislative act of the Russian Federation dated 14 February, 2003. In July 2012, the Supreme Court of the Russian Federation ruled to extradite Kasymakhunov, but this decision was annulled by the ECHR. Human rights activists, who were in contact with Kasymakhunov, noted that the disappearance of the person under their care is one of many examples of cooperation between the special services of the Russian Federation and the Special Forces of the countries of Central Asia. In their opinion, the objective of the Uzbek security forces is returning to their homeland people accused of collaborating with or being members of religious or political organisations, whose objectives contrast with the position of the ruling party.¹¹

On 11 November, 2005, the Samara Industrial District Court convicted four members of the ‘Hizb ut-Tahrir’ organisation, who were accused of distributing leaflets and literature, banned in Russia, as well as the organisation and recruiting of supporters. Among them was a citizen of Kyrgyzstan, Umid Abdullayev. The Samara Regional Court of the Russian Federation dismissed the cassation appeal against the disputed judgement on Abdullayev’s deportation from the country. On 17 November, 2005, Abdullayev was expelled from Samara to Kyrgyzstan by a court order of 11 November, 2005, i.e. before the entry into force of the decision.¹²

On 10 July, 2013 during a routine police check, **an Uzbek citizen, film producer Mirsobir Hamidkariev was detained**. Uzbekistan had submitted a request for his extradition, but Hamidkariev was not rendered due to the lack of legal basis for such an action. After his release from custody, on 7 August, 2013, as soon as two days later, he was held criminally liable for violation of the terms of his stay in the Russian Federation. At the hearing on 10 August, 2013, the court didn’t find sufficient evidence to convict Hamidkarieva. During his second incarceration, the defendant inflicted injuries upon himself whilst awaiting sentencing. Following the announcement of the ruling to drop charges by the court, eyewitnesses, who were present at the meeting, reported the attendance of people with apparent hostile intent towards the defendant.¹³

⁹ <http://news.tj/ru/news/makhmadruzi-iskandarova-dolzny-byli-osvobodit-eshche-dva-mesyatsa-nazad>

¹⁰ <http://amnesty.org.ru/node/2406>

¹¹ <http://ehracmos.memo.ru/page.php?page=564>

¹² <http://www.pr.kg/old/archive.php?id=4142>

¹³ http://refugee.ru/news/uzbekskij_prodjuser_obvinjaemyj_na_rodine_v_ehkstremizme_mozhet_byt_vyslan_v_uzbekistan/2013-08-10-277

Hamidkariev was accused of anti-state activities of religious and extremist nature. Law enforcement agencies of Uzbekistan accused Hamidkariev of the establishment and promotion of the terrorist organisation 'Islom Zhihodchilari' and disseminated on the Internet the information describing the nature of the activities of the producer at the meetings of his organisation. According to human rights activists, by means of identifying a number of cultural and sports activists and civil society activists as members of Hamidkariev's organisation, as well as describing the activities of the organisation itself as radical and oppositionist, Uzbek authorities effectively created a precedent for the prosecution of these activists and Hamidkariev himself.¹⁴

1.5. Abdulvosi Latipov's case.

On 4 October, 2010, Abdulvosi Latipov, a Tajik citizen, who worked as a bodyguard of Haji Akbar Turajonzodah, a former leader of the United Tajik Opposition, was detained by the Federal Security Service (FSB) on the basis of the extradition request, filed by the Tajik authorities, and placed in detention facility No. 1 in the city of Volgograd. He was charged with extortion, kidnapping, banditry, an assassination attempt made against a state or public figure, damage to public property and terrorism. On 24 August, 2011, Russian General Prosecutor's Office issued a decision to extradite Latipov to Tajikistan. On 22 December, 2011, the ECHR decided to disallow the extradition. On 4 May, 2012, Latipov was released from custody and re-detained by the Federal Migration Service (FMS) of Russia in Volgograd Province, and taken to the Central District Court of Volgograd with the demands that he be subjected to administrative expulsion. At the same time, the defendant was not permitted to see his lawyer. The court ruled to re-incarcerate Latipov.

After the filing of an appeal by Latipov's counsel with the Volgograd Regional Court, the sentence was reduced to a fine in the amount of 2000 rubles (approx. 45 euros). However, Latipov has not been released, while his lawyer has been served with a supervisory judgement, repealing the ruling of the second instance court on the basis of a claim, issued by the prosecutor. This decision was illegal, since it was signed by the deputy chairman of the Volgograd Regional Court. However, the prosecutor's office does not participate in administrative cases, and may only carry out supervision at the request of any participant of the process.¹⁵

On 15 October, 2012, Latipov was released from custody by a decision of the Supreme Court, issued on 21 August, 2012. The detainee was transferred to the Traktorozavodskiy District Prosecutor's Office of Volgograd, where he was placed under house arrest. Latipov also gave his future residential address and telephone number. According to Latipov's counsel, on 20 October, 2012, friends of the former reported that he had been abducted by unidentified armed men in black uniforms with no markings. In the Prosecutor's Office, Latipov was not declared wanted, despite the fact that he was under house arrest, and the office stated that he had fled on his own accord.¹⁶ Official representatives of the law enforcement agencies of Tajikistan deny Latipov is being held in any special institution in the territory of the republic and report that they do not have any information regarding his whereabouts.¹⁷

2. TORTURE, ILL-TREATMENT AND UNLAWFUL EXTRADITION AS A SYSTEMIC PHENOMENON IN THE CIS.

¹⁴ <http://www.memo.ru/d/168735.html>

¹⁵ <http://www.memo.ru/d/109068.html>

¹⁶ <http://www.fergananews.com/news/19673>

¹⁷ http://www.ng.ru/regions/2012-12-04/5_zpecial_forces.html

2.1. Torture in Russia and Central Asian countries.

In the above named cases, as well as in some other cases, citizens of other countries were sent to their homeland, contrary to international law prohibiting the extradition of persons who may face ill-treatment or unfair trial in the country of destination. This is confirmed by a ruling of the European Court of Human Rights (ECHR), which points to the inadmissibility of extradition of the ECHR applicants to requesting states due to a real risk of becoming a victim of ill-treatment, especially with regard to members of illegal organisations, persons accused of terrorism and political oppositionists.¹⁸

Despite the existence of 'the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment', a number of countries, particularly the countries of Central Asia, regularly use torture in prisons. For example, international human rights organisations have reported on the systematic use of torture and ill-treatment of detainees and prisoners in Uzbekistan. However, such statements are ignored by the higher authorities. In particular, Gulnara Karimova, the daughter of the president of the country, appointed to the post of permanent representative of the Republic of Uzbekistan to the United Nations, not only failed to pay attention to human rights issues in the country, but she herself has been examined within European investigations for ill-treatment of people.¹⁹

The rights of detainees in Kazakhstan are routinely violated. Contrary to international standards, Kazakhstan regularly carries out extradition of refugees to the countries where they may face ill-treatment. In addition, within 6 months in 2013, 201 complaints of torture and other forms of unlawful treatment were submitted.²⁰ However, within 5 months, only 19 criminal cases were initiated.²¹

The systemic nature of torture can be cited also in the case of Russia. Torture is resorted to as a form of interrogation of those accused of crimes, as well as for the purpose of obtaining confessions from innocent people in order to improve statistics for crimes solved. Also, torture is frequently used on the grounds of racial and ethnic intolerance and as a method of combating the political opposition. Ill-treatment of inmates is also an unsatisfactory condition of detention in prisons. There are also frequent cases of refusal to provide appropriate medical care to prisoners. According to the foundation 'In defence of the rights of prisoners', in 2012, more than four thousand people died in prisons and detention centres of the Russian Federation, while 90% of prisoners suffer from various illnesses and do not receive proper medical care.²² Less than 30% of seriously ill patients were released from prison in 2011, while in 2007, this number reached 50%.²³

One of the illustrative examples is the situation with **Yulia Rotanova**, a person involved in the case of 'Oboronservis'.²⁴ For more than a year, Rotanova has been remanded in detention centre, where she fell ill with breast cancer, but she was refused to change the measure of restraint to house arrest. Rotanova's relatives believe that the reason for this was her refusal to give incriminating evidence against ex-Defence Minister, Anatoliy Serdyukov and her superior, Aleksandr Elkin, the CEO of

¹⁸ http://www.echr.coe.int/Documents/FS_Expulsions_Extraditions_RUS.pdf

¹⁹ <http://jarayon.com/ru/index.php/2012-04-04-14-31-53/item/599-pytki-v-uzbekistane-istina-ne-trebuyushchaya-dokazatelstv>

²⁰ <http://rus.azattyq.org/content/kazakhstan-kritikuyut-za-extradiciyu-bezhencev/25034817.html>

²¹ http://www.odfoundation.eu/ru/urgents/1551/otchet_pitki_kazahstane

²² <http://zashita-zk.org/stats/1362347796.html>

²³ <http://www.zashita-zk.org/stats/1319402439.html>

²⁴ JSC 'Oboronservis' - a company, created under the auspices of the Ministry of Defence of the Russian Federation in order to ensure outsourcing in the Armed Forces. In October 2012, law enforcement agencies instituted criminal cases on charges of fraud in transactions pertaining to real estate, land and shares of the Company.

'Slavyanka', a subsidiary company of 'Oboronservis'. At the same time, the main person involved in the case of Yevgeniy Vasilyev has been under house arrest for a year now.²⁵

2.2. The lack of appropriate legislation as the cause of torture in Russia.

One of the main reasons for the widespread use of torture in Russia is the lack of effective mechanism for prevention and to prompt the bearing responsibility for its use. The only instrument, designed to ensure the protection of the rights of detainees and prisoners, which can be taken into account is **the Law 'On the Public Control over Securing Human Rights in Facilities of Involuntary Confinement, and Contribution of Public Associations to their Activities'**, which came into force on 1 September, 2008.²⁶

In the preamble to the Law, the need to ensure the rights to life, health, freedom from torture, violence and ill-treatment in places of detention is mentioned. However, the Law itself did not give definitions of torture and ill-treatment, and the described mechanisms of public control are rather declarative. Nothing is stated about the responsibility of the employees of the penitentiary service for human rights violations.

There are also Recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment for the Government of the Russian Federation.²⁷ This document is merely a recommendation, but each point mentioned must be replied to by the Russian side, whether by giving a refuting comment, or by explanation regarding the lack of possibility to apply this recommendation.

Thus, any real effective mechanism to prevent torture and ill-treatment in places of confinement as well as methods of accountability for such actions in Russia does not exist. In this regard, one cannot expect the Russian Federation to honour any guarantees and promises with respect the rights of prisoners, as there is no adequate legislation, and violations of international law both in the sphere of extradition, and standards for the treatment of prisoners are permanently violated.

Of particular concern is the fact that the prison staff perceive violence against detainees and prisoners as a necessary and natural measure. At the same time, the management dissembles the problem in every possible way and conceals offences, while the employees who dare to break the silence are subjected to oppression. Also, human rights activists state that there exists close cooperation of the CIS special services, as a result of which, citizens of Central Asia states, who have been detained in the Russian Federation, disappear following their release, and then reappear in their homelands in prison.²⁸

2.3. Illegal cooperation of Special Services within the Shanghai Cooperation Organisation (SCO).

It should be stressed that such cooperation has a formal legal framework based on the conventions of the Shanghai Cooperation Organisation (SCO), one of the tools used by Russia to retain its political influence in Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan and China. The founding documents are the Shanghai Convention of 15 June, 2001²⁹ and the SCO Convention against terrorism.³⁰ A sub-organisation, which controls the execution of declarations of the aforementioned conventions, is the

²⁵ <http://www.svoboda.org/content/article/25174970.html>

²⁶ <http://www.prison.org/law/zok/text.shtml>

²⁷ http://www.prison.org/know/doc009_2.htm

²⁸ http://unmondetortionnaire.com/IMG/pdf/acat_russie_ru.pdf

²⁹ <http://www.sectsco.org/RU123/show.asp?id=82>

³⁰ <http://www.mid.ru/bdomp/ns-rkonfl.nsf/ac72b85191b0db0643256adc002905c1/baf6836c773da9b2c325786400292549!OpenDocument>

Regional Anti-Terrorist Structure (RATS of the SCO).³¹ The same theses appear with the same wording on mutual intraregional activities aimed at halting terrorist acts, as well as separatism and extremism, combating drug trafficking and ensuring stability and the rule of law in the SCO, are reiterated at the annual summits of Heads of States and in statements on the results of meetings of government representatives.³²

These conventions define the overall framework for cooperation between various bodies of the executive and judicial branches of government of the participating countries. However, the documents regarding the direct bilateral cooperation of countries, which imply, amongst other things, the ongoing close cooperation of the SCO on the expulsion of persons who are entitled to use the principle of non-refoulement, are not publicly available. Within the organisation, meetings of representatives of the participating countries at the level of the Presidents of the Supreme Courts and General Prosecutors, are regularly held.³³ Declarations on the results of such meetings include phrases such as “the gradual development of policies of liberalisation and humanisation of the criminal and procedural legislation of SCO Member States”,³⁴ which clearly contradicts the incidents of violations of the rights of detainees, as reported by human rights activists across the countries of the region. Thus, the declarations of the SCO ensure the cooperation of the intelligence services of the participating countries, but do not guarantee the observance of the rights of detainees.

3. INTERNATIONAL INTERVENTION AS A MEANS OF STOPPING HUMAN RIGHTS VIOLATIONS.

European states not only call on the international community to respect international obligations and protect human rights, but also employ measures to prevent illegal arrests and extraditions.

On 13 February, 2013, The Criminal Division of the National Court of Spain served the antifascist **Petr Silayev with a decision on Russia’s refusal to extradite him.** Silaev was accused of the attack on the administration of the town of Khimki in 2010 during a concert in defence of the Khimki forest.

Moreover, the Court spoke quite sharply against its Russian colleagues and Russian legislation on the whole. A Spanish court ruled that Silaev’s actions cannot be subject to Article 213 ‘On Hooliganism’ of the Criminal Code, as he participated in a rally and at the same time did not commit any specific offences.³⁵

On 29 November, 2009, the ECHR issued a decision to grant political asylum in Sweden to 12 Uzbek citizens, facing extradition to their homeland from Russia. The applicants argued that their extradition to Uzbekistan would expose them to the risk of ill-treatment and death penalty. They also filed an application for refugee status due to fear of torture and political persecution. Nevertheless, the Russian authorities denied their applications and decided to extradite them to Uzbekistan.³⁶

On 7 May, 2013, the Lithuanian General Prosecutor's Office refused to render a Georgian politician, Givi Targamadze to Russia, where he is suspected of organising mass riots. The basis for the verdict was the fact that, in accordance with Lithuanian laws, the alleged actions, incriminated to Targamadze, do not evoke criminal responsibility.³⁷ Targamadze is a former chairman of the Georgian parliamentary committee for defence and security. According to him, the reason for his persecution

³¹ <http://ecrats.com/>

³² For example, the Bishkek Declaration of the Heads of Member States of the Shanghai Cooperation Organisation
<http://www.sectSCO.org/RU123/show.asp?id=699>

³³ <http://www.sectSCO.org/RU123/show.asp?id=527>

³⁴ <http://www.sectSCO.org/RU123/show.asp?id=493>

³⁵ http://www.gazeta.ru/politics/news/2013/02/13/n_2752581.shtml

³⁶ <http://newsland.com/news/detail/id/250752/>

³⁷ <http://finam.info/news/litva-otkazala-rossii-v-ekstraditsii-targamadze/>

in Russia was allegedly his financing of the activities of Russian opposition forces; a charge which is distinctly unfounded.³⁸

Thus, the situation surrounding human rights in the countries of Central Asia and the Russian Federation is extremely unsatisfactory. Detainees and prisoners are subjected to torture and ill-treatment, contrary to the international obligations of the States, and these phenomena are systemic in nature and are concealed in every possible way by workers of law enforcement bodies and the penitentiary system. The practice of illegal extradition within the CIS and SCO is commonplace; it is frequently carried out in contempt of the decisions of the ECHR regarding the inadmissibility of expulsion due to the threat of ill-treatment or illegal prosecution. Close cooperation is established between the special services of these states; as a consequence, upon the release of a detainee in one country, the refugee may be detained and convicted in his homeland.

In connection with the described situation, it is very important to prevent the extradition of refugees from European countries to Russia, where they might be subjected to torture or be sent back to the countries of Central Asia and subjected to ill-treatment and convicted there. It is international intervention which facilitates the prevention of neglect of human rights both by urging states to fulfill their obligations to protect the rights and freedoms of citizens, and by granting asylum to those who may face ill-treatment or politically motivated prosecution in their homeland.

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³⁸ <http://www.golos-ameriki.ru/content/georgia-targamadze/1709596.html>